H. The cost of land purchased prior to January 1, 1984, shall be limited according to laws and rules effective on December 31, 1983. The cost of land purchased on or after January 1, 1984, shall be limited to $3,000 per licensed bed. After May 1, 1990, the 1990 calendar year investment per bed limit for a facility's land must not exceed $5,700 per bed for newly constructed or newly established facilities in Hennepin, Ramsey, Anoka, Washington, Dakota, Scott, Carver, Chisago, Isanti, Wright, Benton, Shelburne, Stearns, St. Louis, Clay, and Olmsted counties, and must not exceed $3,000 per bed for newly constructed or newly established facilities in other counties.

I. Interest expense incurred as a result of a capital debt or working capital loan between related organizations shall not be an allowable cost, except as in item B.

J. Except as provided in item D, capital debt related financing charges including points, origination fees, and legal fees shall be amortized over the term of the capital debt.

Section 9.040 **Computation of property related payment rate.** The Department shall determine the property related payment rate according to items A to C.

A. The number of capacity days is determined by multiplying the number of licensed beds in the facility by the number of days in the facility's reporting year. For rate years beginning on or after October 1, 1988, a facility that has reduced its licensed bed capacity after January 1, 1988, may, for the purpose of computing the property-related payment rate under this section, establish its capacity days for each rate year following the licensure reduction based on the number of beds licensed on the previous August 1, provided that the Department is notified of the change by August 4. The notification must include a copy of the delicensure request that has been submitted to the Department of Health.

B. The Department shall compute the allowable property related costs by reviewing and adjusting the facility's property related costs incurred during the reporting year. The facility's property related per diem shall be determined by dividing its allowable property related costs by 96 percent of the capacity days. For facilities with 15 or fewer licensed beds, the Department shall use the lesser of 96 percent of licensed capacity days or resident days, except that in no case shall resident days be less than 85 percent of licensed capacity days.

C. The facility's property related payment rate shall be determined by adding the amount in item B, and the capital debt reduction allowance in Section 9.050, or the allowance in Section 9.070, item F.

Section 9.050 **Capital debt reduction allowance.** A provider whose facility is not leased or a facility which is leased from a related organization shall receive a capital debt reduction allowance. The amount of the capital debt reduction allowance and the reduction of capital debt required must be determined according to items A to G:

A. The total amount of the capital debt reduction allowance and the portion of that amount which must be applied to reduce the provider's capital debt shall be determined according to the following table:

Percentage of Equity In Capital Assets Used By The Facility	Total Capital Debt Reduction Allowance Per Resident Day (In Dollars)	Amount Which Must Be Applied To Reduce Capital Debt (In Dollars)
Less than 20.01	.50	.40
20.01 to 40.00	.50	-0-
40.01 to 60.00	.70	-0-
60.01 to 80.00	.90	-0-
80.01 to 100.00	1.10	-0-

B. Except as provided in Section 9.070, item F, the provider's percentage of equity in the facility shall be determined by dividing equity by total allowable historical capital cost of capital assets.

C. Each reporting year, the provider shall reduce the capital debt at the end of the reporting year by an amount equal to the portion of the capital debt reduction allowances paid during the reporting year which must be applied to reduce capital debt multiplied by the prorated resident days corresponding to each capital debt reduction allowance paid during the reporting year.

D. The amount of reduction of capital debt computed in item A must be in addition to the normal required principal payments on the capital debt to be reduced.

E. The amount of reduction of capital debt computed in item C must be applied first to reduce the principal on the allowable portion of any capital debt on which the provider is only required to pay interest expense. The remaining portion of the amount shall be applied to reduce other allowable capital debt starting with the capital debt which had the highest amount of interest expense during the reporting year.

F. If prepayment of a capital debt is prohibited by the funding source and the provider does not have any other capital debts, the portion of the capital debt reduction allowance which must be applied to reduce capital debt shall be applied first to the reduction of any working capital loans; the balance shall be deposited in the funded depreciation account. If prepayment of the capital debt results in the imposition of a prepayment penalty by the funding source, a portion of the capital debt reduction allowance which must be applied to reduce capital debt may be used to pay that penalty and the remainder may be used to reduce capital debt or the entire portion of the capital debt reduction allowance to be used to reduce capital debt may be deposited in the funded depreciation account.

G. For purposes of determining the provider's property related payment rate for the facility, only capital debt interest expense resulting from allowable capital debt reduced in accordance with items C to F shall be allowed.

H. Effective for the rate year beginning on or after October 1, 1993, if the facility's capital debt reduction allowance is greater than 50 cents per resident per day, that facility's capital debt reduction allowance in excess of 50 cents per resident per day shall be reduced by 25 per cent.

Section 9.060 **Energy conservation incentive.** The Department shall approve requests for exceptions to Section 4.080 and Section 9.030, item F for initiatives designed to reduce the energy usage of the facility. The requests must be accompanied by an energy audit prepared by a professional engineer or architect registered in Minnesota, or by an auditor certified to do energy audits. The cost of the energy audit is an allowable operating cost and must be classified in the plant operations and maintenance cost category. Energy conservation measures identified in the energy audit that:

A. have a payback period equal to or less than 36 months and a total cost not exceeding $1 per resident day shall be exempt from Section 4.080 and Section 9.030, item F; or

B. have a payback period greater than 36 months and a total cost not exceeding $1 per resident day shall be exempt from Section 9.030, item F.

Section 9.070 **Reimbursement of lease or rental expense.** The provider or provider group's lease or rental costs shall be determined according to items A to J.

A. Lease or rental costs of depreciable equipment shall be allowed if:

(1) the lease or rental agreement is arms-length; and

(2) the lease or rental cost is equal to or less than the cost of purchasing that piece of depreciable equipment. For purposes of this subitem, the cost of purchasing the piece of depreciable equipment must be determined according to Sections 9.010 to 9.040 and item E; or

(3) the arms-length lease or rental agreement for the piece of depreciable equipment covers a period of 60 days or less annually.

B. Leases or rental agreements shall be considered arms-length transactions unless the lease or rental agreement:

(1) results from sale and lease-back arrangements;

(2) results from a lease with option to buy at less than anticipated value;

(3) is paid to a related organization; or

(4) for other reasons is required to be capitalized in accordance with generally accepted accounting principles.

C. The costs of a lease or rental agreement for a facility's physical plant shall be subject to the following limitations:

(1) Lease or rental costs which are not arms-length leases as defined in item B shall be disallowed.

(2) Arms-length leases or rental costs shall be allowed subject to the limitations in item E.

(3) Leases or rental costs incurred under agreements entered into on or before December 31, 1983, are allowable under rules and regulations in effect on December 31, 1983, subject to the conditions in item B and the limitations in item E.

(4) Increases in lease or rental costs resulting from the renewal, renegotiation, or extension of a lease or rental agreement in subitem (3) are allowable to the extent that the

facility's property related payment rate does not exceed the average property related payment rate of all facilities in the state.

D. For nonarms-length lease or rental costs disallowed under item C, subitem (1) or (3), the provider shall receive in lieu of the lease or rental costs for the facility's physical plant the applicable depreciation, interest, and other reasonable property related costs incurred by the lessor, such as real estate taxes. Depreciation and interest shall be established in accordance with Sections 9.010 to 9.050, and shall be based on the lessor's historical capital cost of the capital assets and historical capital debt.

E. The present value of the lease or rental payments allowed in item A, subitem (2) and item C, subitems (2), (3), and (4) together with the historical capital cost of all other capital assets used by the facility shall not exceed the limitations in Section 9.010, item C; and Section 9.030, item H. The present value of the lease or rental payments must be calculated exclusive of real estate taxes and other costs assumed by the lessor. The interest rate used in calculating the present value of the lease or rental payments shall be the lessor's interest rate subject to the limits in Section 9.020. If the lessor's interest rate is not provided by the lessor, the Department shall use the interest rate limit established by the rule in effect on the date the lease or rental agreement became effective.

F. Providers with physical plant lease or rental costs disallowed under item C, subitem (1) if such a disallowance was the result of a less than arms-length agreement under item B, subitem (3) may receive the capital debt reduction allowance as in Section 9.050, except that for purposes of computing the percentage of equity in Section 9.050, the lessor and the lessee's historical capital costs of capital assets in the facility and the related historical capital debt must be used.

G. Facilities which lease capital assets from related organizations must fund depreciation in accordance with Section 9.010, item E.

H. In no case shall the allowed property related costs on the purchased capital asset exceed the annual cost allowed for the lease or rental agreement prior to the sale.

I. If a newly constructed or newly established facility is leased with an arms-length lease, the lease agreement will be subject to the following conditions:

(1) the term of the lease, including option periods, must not be less than 20 years;

(2) the maximum interest rate used in determining the present value of the lease must not exceed the lesser of the interest rate limitation in Section 9.020, item A, subitem (2), or 16 percent; and

(3) the residential value used in determining the net present value of the lease must be established using the provisions of Section 9.000.

J. All leases of the physical plant of an ICF/MR must contain a clause that requires the owner to give the Department notice of any requests or orders to vacate the premises 90 days before such vacation of the premises is to take place. In the case of unlawful detainer actions, the owner shall notify the Department within three days of notice of an unlawful detainer action being served upon the tenant. The only exception to this notice requirement is in the case of emergencies where immediate vacation of the premises is necessary to assure the safety and welfare of the residents. In such an emergency situation, the owner shall give the Department notice of the request to vacate at the time the owner of the property is aware that vacating the premises is necessary. This section applies to all leases entered into after the effective date of this section. Rentals set in leases entered into after that date that do not contain this clause are not allowable costs for purposes of medical assistance reimbursement.

SECTION 10.000 LIFE SAFETY CODE ADJUSTMENT.

Section 10.010 **Determination of adjustment.** Adjustments to the special operating cost payment rate for actions taken to comply with the Code of Federal Regulations, title 42, section 483.470~~, as amended through October 1, 1986,~~ shall be determined under Section 10.000.

Section 10.020 **Conditions.** The Department shall allow an adjustment to a facility's special operating cost payment rate when the state fire marshal has issued a statement of deficiencies to the facility ~~under the Code of Federal Regulations, title 42, section 442.508, as amended through October 1, 1986,~~ if the criteria in items A to D are met.

A. The physical plant for which the statement of deficiencies was issued has 16 or fewer licensed beds.

B. The Department has determined that the most programmatically sound and cost effective means of correcting the deficiencies is to modify the physical plant or add depreciable equipment.

C. The cost of the physical plant modification or additional depreciable equipment cannot be covered by reallocating facility staff and costs including funds accumulated in the facility's funded depreciation account and other savings or investment accounts of the provider.

D. The provider has complied with the requirements in Sections 10.030 and 10.040.

Section 10.030 **Request for life safety code adjustment.** The provider shall submit to the Department a written request for a life safety code adjustment to the special operating cost payment rate. The request must include:

A. A copy of the state fire marshal's statement of deficiencies;

B. A copy of the facility's plan of correction approved by the state fire marshal; and

C. A description of the type of physical plant modifications or additional depreciable equipment required to meet the approved plan of correction including the estimated cost based on bids developed in accordance with Section 10.040.

Section 10.040 **Bid requirements.** Bids must be obtained from nonrelated organizations. Only the costs of items required to correct the deficiencies may be included in a bid. Each bid must include:

A. a detailed description of the physical plant modifications needed to correct the deficiencies;

B. the cost of any depreciable equipment needed to correct the deficiencies;

C. the cost of materials and labor; and

D. the name, address, and phone number of the bidder.

If the Department determines the bid submitted by the provider is excessive or includes items not required to correct the deficiencies, the Department may require a second bid and may recommend another organization that must supply the bid. This section shall not apply to a facility that has implemented a plan of correction before July 6, 1987.

Section 10.050 **Evaluation of documents submitted.** The Department shall evaluate the documents submitted under Section 10.030. If the Department determines that the plan of correction is not programmatically sound or cost effective, the Department may require the

facility to submit an alternative plan of correction to the state fire marshal for approval. If the state fire marshal approves the alternative plan of correction, the Department may require the facility to resubmit bids under Section 10.040.

Section 10.060 **Computation of life safety code adjustment.** If the request meets the criteria in Sections 10.020 to 10.050, the Department shall compute the life safety code adjustment to the special operating cost payment rate under items A to E.

A. Upon completion of the physical plant modifications and purchase of the additional depreciable equipment, the facility shall submit copies of invoices showing the total cost of the physical plant modifications and additional depreciable equipment to the Department.

B. The Department shall allow the lesser of the amount in item A or the final bid approved by the Department. The amount allowed shall be reduced by 75 percent of the funded depreciation that may be withdrawn for purchase or replacement of capital assets or payment of capitalized repairs as determined in Section 9.010, item E, subitem (4), and other savings or investment accounts of the provider or the provider group.

C. If a facility is financed by the Minnesota Housing Finance Agency, the facility must use amounts deposited in the development cost escrow account required by the Minnesota Housing Finance Agency to purchase physical plant modifications or additional depreciable equipment allowed under this part. The amount withdrawn from the development cost escrow account must be reimbursed to the facility as provided in Section 10.070. The facility must use the reimbursement to replace the amount withdrawn from the development cost escrow account as required by the Minnesota Housing Finance Agency.

D. If the amount determined in item B is less than $500 per licensed bed, the amount must be divided by the resident days from the cost report that was used to set the facility's total payment rate in effect on the date the statement of deficiencies was issued.

E. If the amount determined in item B is equal to or greater than $500 per licensed bed, the amount in excess of $500 per licensed bed must be reimbursed during the rate year following the rate year in which the statement of deficiencies was issued. The amount in excess of $500 per licensed bed must be divided by the resident days from the cost report that was used to set the facility's total payment rate for the rate year following the rate year in which the statement of deficiencies was issued.

Section 10.070 **Adjustment of special operating cost payment rate.** If the amount in Section 10.060, item B or C is greater than zero, the Department shall adjust the facility's

special operating cost payment rate under items A and B.

A. The per diem amount in Section 10.060, item D, must be added to the facility's special operating cost payment rate for the rate year identified in Section 10.060, item D, and will be effective on the first day of that rate year.

B. The per diem amount in Section 10.060, item E, must be added to the facility's special operating cost payment rate for the rate year identified in Section 10.060, item E, and shall be effective on the first day of that rate year.

Section 10.080 **Reimbursement limits.** If a life safety code adjustment to the special operating cost payment rate is allowed under this part, the cost of the physical plant modifications and additional depreciable equipment allowed in Section 10.060, item B, must not be claimed for reimbursement under other sections. The cost of the physical plant modifications and additional depreciable equipment not allowed under Section 10.060, item B, shall be capitalized and depreciated in accordance with Section 9.010.

Section 10.090 **Changes in one-time adjustment.** If a facility has been given a one-time adjustment under Section 7.030 and the Department determines under Section 10.020, item A, that the life safety code deficiency should be corrected under this part, the facility's one-time adjustment or the portion of that one-time adjustment that related to the life safety code deficiency shall be subtracted from the facility's total payment rate on the date the life safety code adjustment under this part is effective. If more than 50 percent of the one-time adjustment is subtracted from the facility's total payment rate under this subpart, the facility may apply for another one-time adjustment within the three-year period established in Section 7.030, item G.

SECTION 11.000 DETERMINATION OF TOTAL PAYMENT RATE.

Section 11.010 **Total payment rate.** The total payment rate must be the sum of the total operating cost payment rate, the special operating cost payment rate, and the property related payment rate.

Section 11.020 **Limitations to total payment rate.** The total payment rate must not exceed the rate paid by private paying residents for similar services for the same period. This limit does not apply to payments made by the Department for approved services for very dependent persons with special needs under Section 16.000.

Section 11.030 **Respite care payments.** Respite care is not a covered ICF/MR service. However, residents covered by other third party payers (counties, insurance companies, and private payers or home and community-based waivers) may be admitted for respite care services. Rates charged for respite care services must be identified separately. The provider must report the costs and resident days associated with providing respite care services, together with other facility costs and days. The Department will include all of the facility's allowed cost and resident days (including respite care costs and days) in determining the facility's payment rate for ICF/MR resident days.

Section 11.040 **Adjustment to total payment rate for phase-in of common reporting year.** A facility whose total payment rate established for the rate year beginning during calendar year 1985 will be in effect for a period greater than 12 months due to the phase-in of a common reporting year, shall receive for the months over 12 months, its total payment rate increased by the prorated annual percentage change in the all urban consumer price index (CPI-U) for Minneapolis/St. Paul as published by the Bureau of Labor Statistics between January 1984 and January 1985, new series index (1967=100). That adjusted total payment rate shall be in effect until September 30, 1986. This adjusted total payment rate must not be in effect for more than nine months.

Section 11.050 **Disaster-related provisions.**

A. Notwithstanding a provision to the contrary, a facility may receive payments for expenses specifically incurred due to a disaster. Payments will be based on actual documented costs for the period during which the costs were incurred, and will be paid as an add-on to the facility's payment rate, or as a lump sum payment. The actual costs paid will be reported on the next annual cost report as non-allowable costs, in order to avoid duplicate payment. Costs submitted for payments will be subject to review and approval by the Department. The Department's decision is final and not subject to appeal. Costs not paid in this manner may be claimed on the subsequent cost report for inclusion in the facility's payment rate.

B. For transfers, the rates continue to apply for evacuated facilities, and residents are not counted as admissions to facilities that admit them.

SECTION 12.000 RATE SETTING PROCEDURES FOR NEWLY CONSTRUCTED OR NEWLY ESTABLISHED FACILITIES OR APPROVED CLASS A TO B CONVERSIONS.

Section 12.010 **Interim payment rate.** A provider may request an interim payment rate for a newly constructed or newly established facility or for a facility converting more than 50 percent of its licensed beds from Class A beds to Class B beds provided that the conversion is approved by the Department. To receive an interim payment rate, the provider must submit a projected cost report to the extent applicable for the year in which the provider plans to begin operation or plans to convert beds. Section 7.010, item A, subitems (2), (3), and (4), Section 7.022, item E, Section 7.030, and Section 9.060 shall not apply to interim payment rates. The interim property related payment rate must be determined using projected resident days but not less than 80 percent of licensed capacity days. The effective date of the interim payment rate for a newly constructed or newly established facility must be the later of the first day a medical assistance recipient resides in the newly constructed or established bed or the date of medical assistance program certification. The effective date of the interim payment rate for a facility converting more than 50 percent of its licensed beds from Class A beds to Class B beds must be the later of the date on which 60 percent of the converted beds are occupied by residents requiring a Class B bed as determined by the Department or the date on which the beds are licensed as Class B beds by the Minnesota Department of Health. Prior to the effective date of the interim payment rate, the provider may submit a request to update the interim payment rate. After the effective date of the interim payment rate, no adjustments shall be made in the interim payment rate until settle-up.

The term "newly constructed or newly established" means a facility: (1) for which a need determination has been approved by the Department under state law; (2) whose program is newly licensed under Minnesota Rules and certified under Code of Federal Regulations, title 42, section 438.400 et. seq.; and (3) that is part of a proposal that meets the requirements of state law restricting discharges from a state regional treatment center.

The term does not include a facility for which a need determination was granted solely for other reasons such as: (1) the relocation of a facility; (2) a change in the facility's name, program, number of beds, type of beds, or ownership; or (3) the sale of a facility, unless the relocation of a facility to one or more service sites is the result of a voluntary closure of a facility under state law, in which case (3) does not apply.

The term does include a facility that converts more than 50 percent of its licensed beds from Class A to Class B residential or Class B institutional to serve persons discharged from state regional treatment centers on or after May 1, 1990, in which case (3) in the second paragraph

does not apply.

Section 12.020 **Interim payment rate settle-up.** The interim payment rate must not be in effect more than 17 months. When the interim payment rate begins between August 1 and December 31, the facility shall file settle-up cost reports for the period from the beginning of the interim payment rate through December 31 of the following year. When the interim payment rate begins between January 1 and July 31, the facility shall file settle-up cost reports for the period from the beginning of the interim payment rate to the first December 31 following the beginning of the interim payment rate.

A. An interim payment rate established on or before December 31, 1985, is subject to retroactive upward or downward adjustment based on the settle-up cost report and according to rules in effect when the interim rate was established.

B. An interim payment rate established on or after January 1, 1986, is subject to retroactive upward or downward adjustment based on the settle-up cost report, except that:

(1) Section 7.010, item A, subitems (2), (3), and (4); Section 7.022, item E; Section 7.030; and Section 9.060 do not apply;

(2) the settle-up property related payment rate must be calculated using the lesser of resident days or 96 percent of licensed capacity days, but not less than 80 percent of licensed capacity days;

(3) the settle-up operating cost payment rates must be determined by dividing the allowable historical operating costs by the greater of resident days or 80 percent of licensed capacity days;

(4) the settle-up special operating cost payment rate must be determined by dividing the allowable historical special operating costs by the greater of resident days or 80 percent of licensed capacity days; and

(5) the settle-up total payment rate must not exceed the interim payment rate by more than 0.4166 percent for each full month between the effective date of the interim payment rate period and the end of the first fiscal period.

Section 12.030 **Total payment rate for nine-month period following settle-up period.** For the nine-month period following the settle-up period, the total payment rate must be determined according to items A to C.

A. The allowable historical operating cost per diems must be determined in accordance with all sections except that:

(1) Section 7.010, item A, subitems (2), (3), and (4); Section 7.022, item E; Section 7.030; and Section 9.060 do not apply;

(2) the resident days must be the greater of an annualization of the resident days in the last three months of the interim reporting period or the s in the interim reporting period by not less than 85 percent of licensed capacity days; and

(3) the allowable historical operating cost per diems must be adjusted by multiplying those per diems by 9/12 of the percentage change in the all urban consumer price index (CPI/U) of Minneapolis/St. Paul as published by the Bureau of Labor Statistics between the two most recent Decembers before the beginning of the rate year, new series index (1967=100).

B. The special operating cost payment rate must be determined by dividing the allowable historical special operating costs by the greater of s or 85 percent of licensed capacity days.

C. The property related payment rate must be determined according to these sections.

Section 12.040 **Payment rate during the first rate year following the interim rate period.** The first total payment rate for the first rate year after the end of the interim rate period must be based on the settle-up cost report and must be calculated as in Section 12.030, except that the allowable historical operating cost per diems shall be adjusted in accordance with Section 7.022, item A.

SECTION 13.000 APPEAL PROCEDURES.

Section 13.010 **Scope of appeals.** A decision by the Department may be appealed by the provider, provider group, or a county welfare or human services board if the following conditions are met:

A. the appeal, if successful, would result in a change to the facility's total payment rate;

B. the appeal arises from application of these sections; and

C. the dispute over the decision is not resolved informally between the Department and the appealing party within 30 days of filing the written notice of intent to appeal under Section 13.020, item A.

Section 13.020 **Filing of appeals.** To be effective, an appeal must meet the following criteria:

A. The provider, provider group, or county welfare or human services board must notify the Department in writing of its intent to appeal within 30 days of receiving the total payment rate determination or decision which is being appealed. A written appeal must be filed with the Department within 60 days after receiving the total payment rate determination or decision which is being appealed.

B. The appeal must specify:

(1) each disputed item and the reason for the dispute;

(2) the computation and the amount that the provider believes to be correct;

(3) an estimate of the dollar amount involved in each disputed item;

(4) the authority in statute or rule upon which the provider is relying for each disputed item; and

(5) the name and address of the person or firm with whom contacts may be made regarding the appeal.

Section 13.030 **Resolution of appeal.**

A. Unless item B applies, the appeal shall be heard under Minnesota's contested case provisions.

B. Upon agreement of both parties, the dispute shall be resolved informally through any informal dispute resolution method such as settlement, mediation, or modified appeal procedures established by agreement between the Department and the Chief Administrative Law Judge.

Section 13.035 **Expedited appeal review.**

A. Within 120 days of the date an appeal is due according to Section 13.020, item A, the Department shall review an appealed adjustment equal to or less than $100 annually per licensed bed of the provider, make a determination concerning the adjustment, and notify the provider of the determination. Except as allowed in item G, this review does not apply to an appeal of an adjustment made to, or proposed on, an amount already paid to the provider. In this section, an adjustment is each separate disallowance, allocation, or adjustment of a cost item or part of a cost item as submitted by a provider according to forms required by the Commissioner.

B. For an item on which the provider disagrees with the results of the determination of the Department made under item A, above, the provider may, within 60 days of the date of the review notice, file with the office of administrative hearings and the Department its written argument and documents, information, or affidavits in support of its appeal. If the provider fails to make a submission in accordance with this item, the Department's determinations on the disputed items must be upheld.

C. Within 60 days of the date the Department received the provider's submission under item B, the Department may file with the office of administrative hearings and serve upon the provider its written argument and documents, information, and affidavits in support of its determination. If the Department fails to make a submission in accordance with this item, the Administrative Law Judge shall proceed pursuant to item D based on the provider's submission.

D. Upon receipt by the office of administrative hearings of the Department's submission made under item C or upon the expiration of the 60-day filing period, whichever is earlier, the Chief Administrative Law Judge shall assign the matter to an Administrative Law Judge. The Administrative Law Judge shall consider the submissions of the parties and all relevant rules, statutes, and case law. The Administrative Law Judge may request additional argument from the parties if it is deemed necessary to reach a final decision, but shall not allow witnesses to be presented or discovery to be made in the proceeding. Within 60 days of receipt by the office of administrative hearings of the Department's submission or the expiration of the 60 day filing period in item C, whichever is earlier, the Administrative Law Judge shall make a final decision on the items in issue, and shall notify the provider and the Department by first-class mail of the decision on each item. The decision of the Administrative Law Judge is the final administrative decision, is not appealable, and does not create legal precedent, except that the Department may make an adjustment contrary to the decision of the Administrative Law Judge based upon a subsequent cost report amendment or